

Remarks

In response to the Office Action, Applicant has amended claim 14 to clarify that the tubular portion of the sample vessel is a truncated conical external surface, the angle between a meridian of the truncated conical external surface and the axis of the cone being in the range of from 0.1 degrees to 10 degrees. This critical limitation is set forth in independent claim 14 as well as in independent claim 28. Lee et al, U.S. Patent No. 6,312,886, shows in FIG. 8 a vessel that has a bottom portion that is not conical nor does it have the angle between a meridian of the truncated conical external surface in the axis of the cone being in the range from 0.1 to 10 degrees, preferably 1 to 3 degrees. There is no discussion, suggestion or even contemplation that such is taught by Lee et al.

Regarding the rejection of claims 14, 23 and 25 under 35 USC §103(a) as being unpatentable over Hanley et al in view of Atwood et al, the sample vessel of the invention has a truncated conical external surface, the angle between a meridian of the truncated conical external surface and the axis of the cone being preferably in the range of from 0.2 degrees to 8 degrees, more preferably in the range of from 0.5 degrees to 5 degrees, and even more precisely from 1 degree to 3 degrees (see page 4 of the specification). Such "tapering" enables the finished molded vessel to be easily removed from the mold and as such there is a purpose in criticality to the preferred angle. Regarding the rejection of claim 23 under 35 USC §103(a) as being unpatentable over Lee et al, again Lee does not disclose the angle of the cone from the meridian to be from 0.2 to 8 degrees which is a critical advantage to the subject matter as claimed. To state that one could merely guess at such an angle has no support in the art.

Further, to say that Lee renders claims 14, 24 and 25 unpatentable is again a broad unsupported interpretation in that the vessel does not disclose a structure wherein an internal sample volume is less than 100 microliters. Further, the critical angle between the meridian of the truncated conical external surface in the axis of the cone is also not taught nor suggested. Lee et al shows an angle of 45 degrees and as such would not enable optimal removal as set forth in the specification. Further, regarding claims 28 and new claims 29 and 30, there is no teaching, suggestion or contemplation that the vessel has a frustoconical shape for joining a tubular portion and that the external diameter increases in a direction away from the tubular portion. As seen in FIG. 1 of the application, the external diameter increases from the closed end toward the open end. In all the documents cited by the Examiner namely Lee et al and Lee et al in view of Cassin et al, FIG. 7, shows that the diameter decreases from the closed end to the open end and the vessel has a square cross-section, as best seen in FIG. 7A. This is a critical distinction and would render the art of record inoperable one to change the direction of the diameter cross-sections.

As such, claims 14, 24, 25, 28, 29 and 30 as presently presented all are neither disclosed, suggested nor contemplated by the art of record.

Lastly, the undersigned has a question concerning the Examiner's objection to the specification in that applicant has not claimed a trademark nor have they suggested same. The only material set forth in claim 28 is a material made of a cyclo-olefin copolymer of ethylene and norbornene. If the Examiner wishes to discuss same, please feel free to call the undersigned for further discussion.

If any questions remain, please do not hesitate to contact the undersigned.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Stewart L. Gitler', is written over a horizontal line.

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